APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,850	01/22/2004	Edward O. Clapper	ITL.0273C1US (P7596C)	5876

7590	06/29/2005	**EXAMINER**

PATEL, NITIN

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ART UNIT	PAPER NUMBER
2673	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/762,850	CLAPPER, EDWARD O.
	Examiner	Art Unit	
	Nitin Patel	2673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 April 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>25-31</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>25-31</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some *   c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-24 has been cancelled.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claims 25-29 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,704,007 B1 (Clapper). Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter.

As per claim 25, Clapper shows a processor based system having (In col.6 line 6): a processor (In col.6 line 7); a storage coupled to the processor (In col.6 line 8); a circuit including an accelerometer to automatically produce a signal indicative of the orientation of the circuit (In col.6 lines 10-14 circuits with accelerometer to produce a signal), the circuit coupled to processor (In col.6 lines 11-12) and software stored on the

storage to cause information to be displayed in different formats on the orientation of the circuit (In col.6 lines 13-16), the software to compare data from the accelerometer to stored data for at least two orientations of the display and to determine which stored data best matches the accelerometer data (In col.6 lines 10-16 Clapper shows a software having at least accelerometer to sense three axis, so having accelerometer to sense two axis would have been obvious to choice that the accelerometer sensed x and y direction and it would have been obvious to software to determined the orientation of an image and produce a display format on a display to match and send data on the display using the sensed accelerometer axis).

As per claim 26, Clapper shows display and housing including a keyboard, the housing hingedly connect to the display (In col.6 lines 20-22).

As per claim 27, Clapper shows display has a longer and shorter axis and the software changes the way information is displayed between a first orientation where information is displayed along the longer axis and second orientation which information is displayed along the shorter axis (In col. 6 lines 23-28).

As per claim 28, Clapper shows information is displayed in one of at least two orientations along the longer axis, each orientation inverted with respect to other (In col.6 lines 28-31).

As per claim 29, Clapper shows software changes an aspect ration of information displayed on the display based on the angle of the display with respect to housing (In col.6 lines 32-34).

As per claim 30, Clapper shows software to determine which stored data corresponding to one at least three orientations of the display that most closely matches the accelerometer data (in col.6 lines 10-15 Clapper shows at least three axis sensed by accelerometer to display data on display using software to produce data that match with orientation of the display and displayed proper data accordingly).

As per claim 31, Clapper shows accelerometer to sense acceleration along the axis and software stored on the storage to cause information or data displayed different formats depending on the orientation. It would have been obvious to one of ordinary skill in the art, at the time of the invention was made by having accelerometer to sensed the axis to which way to rotate display and software to follow the accelerometer sensed the axis and change data or information display would have different for both accelerometer and stored data are different because if both data is not different than the display will show same type of data stored on storage device and format of information would remain same on the display.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 25,26,29,30,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hong (2000-654821).

As per claim 25, Hong shows a processor (In fig.1 element 30); a circuit including

an accelerometer (In fig.1 element 10 includes accelerometer) that automatically

produces a signal indicative of the orientation of the circuit, the circuit coupled to the

processor (In fig.1 element connected to processor 30 via a comparator).

Hong does not specifically shows in figures and in specification fully disclosed a

software to cause information on displayed in different format to which data is best

matches for the accelerometer to show information on the display and a memory

coupled to processor. It would have been obvious to one of ordinary skill in the art, at

the time of the invention was made that circuit of fig.1 of Hong would have a memory in

a portable device connected to a processor and Hong teaching of advantage of the

invention that device provides automatic change of orientation of displayed information

would have used accelerometer to compare the data to displayed on the display to a

different format.

As per claim 26, Hong shows device with keypad (In fig.1 read as a keyboard or

input device).

As per claim 29, Hong does not show software change an aspect ration of

information displayed on the display. It would have been obvious to one of ordinary skill

in the art, that Hong teaches changing the displayed information according to orientation

of the display would have a different format or size or ration of the information shown on

the display.

As per claim 30, Hong does not show software having at least three orientations.

It would have been obvious to one of ordinary skill in the art, at the time of the invention

was made teaching of Hong **orientations** (would have more than one) orientations to

sensed in three different directions.

As per claim 31, Hong does not show a different data stored on accelerometer

and stored data. It would have been obvious to one of ordinary skill in the art, that when

accelerometer sensed the orientations of the display and change the format of

information or data would have been different data to show in a different way on the

display having different characteristic on the display having tow different data stored on

the device.

Allowable Subject Matter

5.   Claims 27,28 objected to as being dependent upon a rejected base claim, but

would be allowable if rewritten in independent form including all of the limitations of the

base claim and any intervening claims.

The prior art fails to teach or suggest a display has a longer and shorter axis and

the software changes the way information is displayed between a first orientation where

information is displayed along the longer axis and a second orientation which

information is displayed along the shorter axis as claimed in claim 27.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Nitin Patel whose telephone number is 571-272-7677.

The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin H Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP

June 22, 2005